

REFERENCE TITLE: solar energy tax incentives

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

## HB 2872

Introduced by  
Representative Mason (with permission of committee on Rules)

### AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1510.02; AMENDING SECTIONS 42-12001 AND 42-12006, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-12056; AMENDING SECTION 42-15006, ARIZONA REVISED STATUTES; REPEALING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 43-222; AMENDING SECTIONS 43-1074, 43-1077 AND 43-1079, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1083.01; AMENDING SECTION 43-1161, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1164.01; AMENDING SECTIONS 43-1165 AND 43-1167, ARIZONA REVISED STATUTES; RELATING TO SOLAR ENERGY MANUFACTURING TAX INCENTIVES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,  
3 is amended by adding section 41-1510.02, to read:

4 41-1510.02. Solar energy technologies tax incentives:  
5 qualification

6 A. TAX INCENTIVES ARE ALLOWED FOR EXPANDING OR LOCATING QUALIFIED  
7 SOLAR ENERGY TECHNOLOGIES OPERATIONS IN THIS STATE.

8 B. TO BE ELIGIBLE FOR THE TAX INCENTIVES, A SOLAR ENERGY TECHNOLOGIES  
9 BUSINESS MUST APPLY TO THE DEPARTMENT OF COMMERCE, ON A FORM PRESCRIBED BY  
10 THE DEPARTMENT, FOR CERTIFICATION OF THE BUSINESS AS QUALIFYING FOR THE  
11 INCENTIVES. THE APPLICATION MUST INCLUDE:

12 1. THE APPLICANT'S NAME, ADDRESS, TELEPHONE NUMBER AND FEDERAL  
13 TAXPAYER AND EMPLOYER IDENTIFICATION NUMBER OR NUMBERS.

14 2. THE NAME, ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS OF A CONTACT  
15 PERSON FOR THE APPLICANT.

16 3. THE ADDRESS OF THE SITE WHERE THE QUALIFIED BUSINESS OPERATIONS  
17 WILL BE LOCATED.

18 4. A DESCRIPTION OF THE BUSINESS.

19 5. OTHER DETAILS AS PRESCRIBED BY THE DEPARTMENT, TO DETERMINE WHETHER  
20 THE BUSINESS QUALIFIES FOR THE TAX INCENTIVES AS PRESCRIBED BY THIS SECTION.

21 C. THE BUSINESS MUST MAKE A NEW INVESTMENT IN THIS STATE IN SOLAR  
22 ENERGY TECHNOLOGIES MANUFACTURING, OR IN REGIONAL, NATIONAL OR GLOBAL SOLAR  
23 ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS AS FOLLOWS:

24 1. TO QUALIFY FOR INCOME TAX CREDITS PURSUANT TO SECTION 43-1083.01 OR  
25 43-1164.01, THE BUSINESS MUST MEET THE FOLLOWING REQUIREMENTS, AS APPLICABLE:

26 (a) THE INVESTMENT MUST PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS  
27 WITH AN AVERAGE WAGE THAT EQUALS OR EXCEEDS ONE HUNDRED FIFTY PER CENT OF THE  
28 MEDIAN ANNUAL WAGE IN THIS STATE, AS DETERMINED BY THE DEPARTMENT OF ECONOMIC  
29 SECURITY'S OCCUPATIONAL EMPLOYMENT AND ANNUAL WAGE ESTIMATES.

30 (b) THE NEW EMPLOYMENT POSITIONS MUST INCLUDE HEALTH INSURANCE  
31 COVERAGE FOR THE FULL-TIME EMPLOYEES FOR WHICH THE EMPLOYER PAYS AT LEAST  
32 EIGHTY PER CENT OF THE PREMIUM OR MEMBERSHIP COST, OR AN EQUIVALENT  
33 PERCENTAGE OF THE COST FOR ALTERNATIVE HEALTH BENEFIT MODELS.

34 (c) A QUALIFYING INVESTMENT IN OPERATIONS MUST REPRESENT EITHER AN  
35 EXPANSION OF AN EXISTING OPERATION IN THIS STATE OR THE ESTABLISHMENT OF A  
36 NEW OPERATION IN THIS STATE. A RELOCATION OF AN EXISTING OPERATION FROM ONE  
37 LOCATION IN THIS STATE TO ANOTHER LOCATION WITHOUT A QUALIFYING EXPANSION  
38 DOES NOT QUALIFY UNDER THIS SECTION FOR THE TAX INCENTIVES.

39 (d) FOR THE PURPOSES OF THIS SECTION AND SECTIONS 43-1083.01 AND  
40 43-1164.01, AN INVESTMENT IN MANUFACTURING MAY INCLUDE RESEARCH AND  
41 DEVELOPMENT FACILITIES, DEMONSTRATION FACILITIES AND HEADQUARTERS FACILITIES.

42 2. THE QUALIFYING PROPERTY SHALL BE CLASSIFIED AS CLASS SIX FOR THE  
43 PURPOSES OF PROPERTY TAXATION PURSUANT TO SECTION 42-12006, PARAGRAPH 9 IF  
44 THE NEW MANUFACTURING INVESTMENT AMOUNTS TO AT LEAST TWENTY-FIVE MILLION

1 DOLLARS IN LAND, NEW BUILDINGS AND OTHER FIXED CAPITAL ASSETS AND EQUIPMENT.  
2 IF THE NEW FULL-TIME EMPLOYMENT POSITIONS PAY AN AVERAGE WAGE THAT EQUALS:

3 (a) AT LEAST ONE HUNDRED FIFTY, BUT LESS THAN TWO HUNDRED, PER CENT OF  
4 THE MEDIAN ANNUAL WAGE IN THIS STATE, AS DETERMINED BY THE DEPARTMENT OF  
5 ECONOMIC SECURITY'S OCCUPATIONAL EMPLOYMENT AND ANNUAL WAGE ESTIMATES, THE  
6 PROPERTY MAY BE CLASSIFIED AS CLASS SIX FOR TEN TAX YEARS.

7 (b) AT LEAST TWO HUNDRED PER CENT OF THE MEDIAN ANNUAL WAGE IN THIS  
8 STATE, AS DETERMINED BY THE DEPARTMENT OF ECONOMIC SECURITY'S OCCUPATIONAL  
9 EMPLOYMENT AND ANNUAL WAGE ESTIMATES, THE PROPERTY MAY BE CLASSIFIED AS CLASS  
10 SIX FOR FIFTEEN TAX YEARS.

11 D. A BUSINESS MAY SEPARATELY APPLY AND QUALIFY FOR CERTIFICATION AND  
12 TAX INCENTIVES WITH RESPECT TO EACH SEPARATE PHASE OF AN EXPANSION OF  
13 BUSINESS OPERATIONS AS SET OUT IN THE MEMORANDUM OF UNDERSTANDING UNDER  
14 SUBSECTION G OF THIS SECTION.

15 E. ELIGIBILITY FOR THE TAX INCENTIVES ARE SUBJECT TO ANY ADDITIONAL  
16 REQUIREMENTS PRESCRIBED BY SECTIONS 42-12006, 43-1083.01 AND 43-1164.01, AS  
17 APPLICABLE.

18 F. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT  
19 APPLICATION UNDER SUBSECTION B OF THIS SECTION, THE DEPARTMENT OF COMMERCE  
20 SHALL REVIEW THE APPLICATION AND EITHER CERTIFY THE APPLICANT AS QUALIFYING  
21 FOR THE PURPOSES OF THE TAX INCENTIVES OR PROVIDE REASONS FOR ITS DENIAL. A  
22 FAILURE TO APPROVE OR DENY THE CERTIFICATION WITHIN SIXTY DAYS CONSTITUTES  
23 APPROVAL OF THE CERTIFICATION. THE DEPARTMENT OF COMMERCE SHALL SEND COPIES  
24 OF THE CERTIFICATION TO THE DEPARTMENT OF REVENUE AND ANY APPLICABLE COUNTY  
25 ASSESSOR. WITHIN THIRTY DAYS, THE DEPARTMENT OF REVENUE AND COUNTY ASSESSOR  
26 SHALL REVIEW THE CERTIFICATION TO DETERMINE WHETHER THE APPLICANT IS  
27 CURRENTLY IN GOOD STANDING AND IS NOT DELINQUENT IN THE PAYMENT OF ANY TAX.

28 G. A QUALIFYING APPLICANT UNDER THIS SECTION MUST ENTER INTO A  
29 MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF COMMERCE IN WHICH THE  
30 APPLICANT:

31 1. COMMITS TO CONTINUE IN BUSINESS AT THE QUALIFYING LOCATION FOR TEN  
32 FULL CALENDAR YEARS AFTER FIRST QUALIFYING FOR A TAX INCENTIVE, OTHER THAN  
33 FOR REASONS BEYOND THE CONTROL OF THE BUSINESS.

34 2. SETS OUT A SCHEDULE OF DISCRETE EXPANSION, INVESTMENT AND HIRING  
35 PHASES OVER THE DURATION OF THE TAX INCENTIVES CERTIFIED PURSUANT TO THIS  
36 SECTION.

37 3. AGREES TO FURNISH TO THE DEPARTMENT INFORMATION RELATING TO THE  
38 AMOUNT OF TAX BENEFITS RECEIVED EACH YEAR.

39 4. AUTHORIZES THE DEPARTMENT OF COMMERCE AS BEING ELIGIBLE TO RECEIVE  
40 TAX INFORMATION FROM THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 42-2003  
41 FOR THE PURPOSE OF DETERMINING ANY INCONSISTENCY IN INFORMATION FURNISHED TO  
42 THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE.

43 5. AGREES TO THE DISCLOSURE BY THE DEPARTMENT OF COMMERCE OF THE  
44 AMOUNT OF TAX BENEFITS RECEIVED EACH YEAR IN COMPOSITE FORM, WITHOUT SPECIFIC  
45 IDENTIFICATION OF ANY TAXPAYER.

6. AGREES TO SUBMIT ANNUAL REPORTS TO THE DEPARTMENT OF COMMERCE AS REQUIRED BY SUBSECTION I OF THIS SECTION AND TO ALLOW INSPECTIONS AND AUDITS TO VERIFY THE APPLICANT'S CONTINUING QUALIFICATION AND THE ACCURACY OF INFORMATION SUBMITTED TO THE DEPARTMENT.

7. CONSENTS TO THE ADJUSTMENT OR RECAPTURE OF ALL OR PART OF ANY INCOME TAX CREDIT OR REDUCTION PROVIDED TO THE BUSINESS ON NONCOMPLIANCE WITH THE LAW OR NONCOMPLIANCE WITH THE TERMS OF THE MEMORANDUM.

H. QUALIFICATION AND CERTIFICATION OF A BUSINESS FOR THE PURPOSES OF INCOME TAX CREDITS UNDER THIS SECTION DO NOT CONSTITUTE OR IMPLY COMPLIANCE WITH ANY OTHER PROVISION OF LAW OR ANY REGULATORY RULE, ORDER, PROCEDURE, PERMIT OR OTHER MEASURE REQUIRED BY LAW. TO MAINTAIN QUALIFICATION FOR INCOME TAX CREDITS UNDER THIS SECTION, A BUSINESS MUST SEPARATELY COMPLY WITH ALL ENVIRONMENTAL, EMPLOYMENT AND OTHER REGULATORY MEASURES.

I. ON OR BEFORE MARCH 1 OF EACH YEAR, THE QUALIFYING BUSINESS MUST MAKE A REPORT TO THE DEPARTMENT OF COMMERCE ON BUSINESS ACTIVITY AT THE QUALIFYING SITES, INCLUDING EMPLOYMENT INFORMATION NECESSARY TO CONFIRM CONTINUING QUALIFICATION. BUSINESS INFORMATION CONTAINED IN THE REPORT IS CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO THE PUBLIC, EXCEPT AS REQUIRED BY THIS SECTION AND EXCEPT THAT A COPY OF THE REPORT SHALL BE TRANSMITTED TO THE DEPARTMENT OF REVENUE. THE REPORT SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF COMMERCE.

J. FOR THE PURPOSES OF ADMINISTERING AND ENSURING COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, AGENTS OF THE DEPARTMENT MAY ENTER, AND A QUALIFIED BUSINESS SHALL ALLOW ACCESS TO, A QUALIFYING BUSINESS SITE AT REASONABLE TIMES AND ON REASONABLE NOTICE TO:

1. INSPECT THE FACILITIES AT THE SITE.
2. OBTAIN FACTUAL DATA AND RECORDS PERTINENT TO AND REQUIRED BY LAW TO BE KEPT FOR THE PURPOSES OF THE TAX INCENTIVES.
3. OTHERWISE ASCERTAIN COMPLIANCE WITH THE LAW AND THE TERMS OF THE MEMORANDUM OF UNDERSTANDING.

K. THE DEPARTMENT OF COMMERCE MAY REVOKE THE BUSINESS' CERTIFICATION IF:

1. THE BUSINESS NO LONGER MEETS THE TERMS AND CONDITIONS REQUIRED FOR QUALIFYING FOR THE TAX INCENTIVES. THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION, OR ALLOW TEMPORARY EXEMPTION FROM RECAPTURE OF TAX BENEFITS, IN THE CASE OF EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE CONTROL OF THE QUALIFYING BUSINESS.

2. WITHIN THIRTY DAYS AFTER A FORMAL REQUEST FROM THE DEPARTMENT OF COMMERCE OR THE DEPARTMENT OF REVENUE THE BUSINESS FAILS OR REFUSES TO PROVIDE THE INFORMATION OR ACCESS FOR INSPECTIONS REQUIRED BY THIS SECTION.

L. IF THE DEPARTMENT OF COMMERCE REVOKES THE BUSINESS' CERTIFICATION UNDER SUBSECTION K OF THIS SECTION, IT SHALL NOTIFY THE DEPARTMENT OF REVENUE AND THE COUNTY ASSESSOR OF THE ACTION AND THE CONDITIONS OF NONCOMPLIANCE. THE DEPARTMENT OF REVENUE MAY ALSO TERMINATE THE CERTIFICATION IF IT OBTAINS INFORMATION INDICATING A FAILURE TO QUALIFY AND COMPLY. THE DEPARTMENT OF

1 REVENUE MAY REQUIRE THE BUSINESS TO FILE APPROPRIATE AMENDED TAX RETURNS  
2 REFLECTING ANY RECAPTURE OF INCOME TAX CREDITS UNDER SECTION 43-1083.01 OR  
3 43-1164.01.

4 M. FOR TEN YEARS AFTER A BUSINESS FIRST QUALIFIES FOR TAX INCENTIVES  
5 UNDER THIS SECTION, IN ANY ACTION INVOLVING THE LIQUIDATION OF THE BUSINESS  
6 ASSETS DUE TO FRAUD OR RELOCATION OUT OF STATE THIS STATE CLAIMS THE POSITION  
7 OF A SECURED CREDITOR OF THE BUSINESS IN THE AMOUNT OF INCOME TAX CREDITS THE  
8 BUSINESS RECEIVED PURSUANT TO SECTION 43-1083.01 OR 43-1164.01.

9 N. THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE SHALL  
10 COLLABORATE IN ADOPTING RULES THAT ARE NECESSARY TO ACCOMPLISH THE INTENT AND  
11 PURPOSES OF THIS SECTION.

12 O. FOR THE PURPOSES OF THIS SECTION:

13 1. QUALIFYING EMPLOYMENT POSITIONS MUST:

14 (a) BE AT LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR OF  
15 FULL-TIME AND PERMANENT EMPLOYMENT.

16 (b) EXIST FOR AT LEAST NINETY DAYS IN THE FIRST TAXABLE YEAR IN WHICH  
17 THE BUSINESS QUALIFIES FOR THE INCOME TAX CREDITS. A NEW EMPLOYMENT POSITION  
18 CREATED AND FILLED DURING THE LAST NINETY DAYS OF THE YEAR IS CONSIDERED TO  
19 BE A NEW EMPLOYMENT POSITION IN THE NEXT YEAR.

20 2. SOLAR ENERGY TECHNOLOGIES ARE LIMITED TO SYSTEMS AND COMPONENTS  
21 THAT ARE USED OR USEFUL FOR THE MANUFACTURING OF SOLAR ENERGY DEVICES, AS  
22 DEFINED IN SECTION 44-1761, OR FOR THE GENERATION, STORAGE, TESTING AND  
23 RESEARCH AND DEVELOPMENT, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM  
24 SOLAR RENEWABLE RESOURCES, INCLUDING PHOTOVOLTAIC AND CONCENTRATED SOLAR  
25 POWER AND SOLAR THERMAL PROCESS USED IN GENERATING ELECTRICITY.

26 Sec. 2. Section 42-12001, Arizona Revised Statutes, is amended to  
27 read:

28 42-12001. Class one property

29 For purposes of taxation, class one is established consisting of the  
30 following subclasses:

31 1. Producing mines and mining claims, personal property used on mines  
32 and mining claims, improvements to mines and mining claims and mills and  
33 smelters operated in conjunction with mines and mining claims that are valued  
34 at full cash value pursuant to section 42-14053.

35 2. Standing timber that is valued at full cash value.

36 3. Real and personal property of gas distribution companies, electric  
37 transmission companies, electric distribution companies, combination gas and  
38 electric transmission and distribution companies, companies engaged in the  
39 generation of electricity and electric cooperatives that are valued at full  
40 cash value pursuant to section 42-14151.

41 4. Real and personal property of airport fuel delivery companies that  
42 are valued pursuant to section 42-14503.

1           5. Real and personal property that is used by producing oil, gas and  
2 geothermal resource interests that are valued at full cash value pursuant to  
3 section 42-14102.

4           6. Real and personal property of water, sewer and wastewater utility  
5 companies that are valued at full cash value pursuant to section 42-14151.

6           7. Real and personal property of pipeline companies that are valued at  
7 full cash value pursuant to section 42-14201.

8           8. Real and personal property of shopping centers that are valued at  
9 full cash value or pursuant to chapter 13, article 5 of this title, as  
10 applicable.

11          9. Real and personal property of golf courses that are valued at full  
12 cash value or pursuant to chapter 13, article 4 of this title.

13          10. All property, both real and personal, of manufacturers, assemblers  
14 or fabricators, **OTHER THAN PROPERTY THAT IS SPECIFICALLY INCLUDED IN ANOTHER**  
15 **CLASS DESCRIBED IN THIS ARTICLE, THAT ARE** valued under the provisions of this  
16 title.

17          11. Real and personal property that is used in communications  
18 transmission facilities and that provides public telephone or  
19 telecommunications exchange or interexchange access for compensation to  
20 effect two-way communication to, from, through or within this state.

21          12. Real property and improvements that are devoted to any other  
22 commercial or industrial use, other than property that is specifically  
23 included in another class described in this article, and that are valued at  
24 full cash value.

25          13. Personal property that is devoted to any other commercial or  
26 industrial use, other than property that is specifically included in another  
27 class described in this article, and that is valued at full cash value.

28          Sec. 3. Section 42-12006, Arizona Revised Statutes, is amended to  
29 read:

30          42-12006. Class six property

31          For purposes of taxation, class six is established consisting of:

32          1. Noncommercial historic property as defined in section 42-12101 and  
33 valued at full cash value.

34          2. Real and personal property that is located within the area of a  
35 foreign trade zone or subzone established under 19 United States Code section  
36 81 and title 44, chapter 18, that is activated for foreign trade zone use by  
37 the district director of the United States customs service pursuant to  
38 19 Code of Federal Regulations section 146.6 and that is valued at full cash  
39 value. Property that is classified under this paragraph shall not thereafter  
40 be classified under paragraph 7 of this section.

41          3. Real and personal property and improvements that are located in a  
42 military reuse zone that is established under title 41, chapter 10, article 3  
43 and that is devoted to providing aviation or aerospace services or to  
44 manufacturing, assembling or fabricating aviation or aerospace products,  
45 valued at full cash value and subject to the following terms and conditions:

1 (a) Property may not be classified under this paragraph for more than  
2 five tax years.

3 (b) Any new addition or improvement to property already classified  
4 under this paragraph qualifies separately for classification under this  
5 paragraph for not more than five tax years.

6 (c) If a military reuse zone is terminated, the property in that zone  
7 that was previously classified under this paragraph shall be reclassified as  
8 prescribed by this article.

9 (d) Property that is classified under this paragraph shall not  
10 thereafter be classified under paragraph 4, ~~OR 7~~ OR 9 of this section.

11 4. Real and personal property and improvements that are located in an  
12 enterprise zone, that are owned or used by a small manufacturing or small  
13 commercial ~~printer~~ PRINTING business that is certified by the department of  
14 commerce pursuant to section 41-1525.01 and that are valued at full cash  
15 value, subject to the following terms and conditions:

16 (a) Property may not be classified under this paragraph for more than  
17 five tax years.

18 (b) Property that is classified under this paragraph shall not  
19 thereafter be classified under paragraph 3, ~~OR 7~~ OR 9 of this section.

20 5. Real and personal property and improvements or a portion of such  
21 property comprising a qualified environmental technology manufacturing,  
22 producing or processing facility as described in section 41-1514.02, valued  
23 at full cash value and subject to the following terms and conditions:

24 (a) Property shall be classified under this paragraph for twenty tax  
25 years from the date placed in service.

26 (b) Any addition or improvement to property already classified under  
27 this paragraph qualifies separately for classification under this subdivision  
28 for an additional twenty tax years from the date placed in service.

29 (c) After revocation of certification under section 41-1514.02,  
30 property that was previously classified under this paragraph shall be  
31 reclassified as prescribed by this article.

32 (d) Property that is classified under this paragraph shall not  
33 thereafter be classified under paragraph 7 of this section.

34 6. That portion of real and personal property that is used on or after  
35 January 1, 1999 specifically and solely for remediation of the environment by  
36 an action that has been determined to be reasonable and necessary to respond  
37 to the release or threatened release of a hazardous substance by the  
38 department of environmental quality pursuant to section 49-282.06 or pursuant  
39 to its corrective action authority under rules adopted pursuant to section  
40 49-922, subsection B, paragraph 4 or by the United States environmental  
41 protection agency pursuant to the national contingency plan (40 Code of  
42 Federal Regulations part 300) and that is valued at full cash value.  
43 Property that is not being used specifically and solely for the remediation  
44 objectives described in this paragraph shall not be classified under this

1 paragraph. For the purposes of this paragraph, "remediation of the  
2 environment" means one or more of the following actions:

3 (a) Monitoring, assessing or evaluating the release or threatened  
4 release.

5 (b) Excavating, removing, transporting, treating and disposing of  
6 contaminated soil.

7 (c) Pumping and treating contaminated water.

8 (d) Treatment, containment or removal of contaminants in groundwater  
9 or soil.

10 7. Real and personal property and improvements constructed or  
11 installed from and after December 31, 2004 through December 31, 2010 and  
12 owned by a qualified business under section 41-1516 and used solely for the  
13 purpose of harvesting, transporting or the initial processing of qualifying  
14 forest products removed from qualifying projects as defined in section  
15 41-1516. The classification under this paragraph is subject to the following  
16 terms and conditions:

17 (a) Property may be initially classified under this paragraph only in  
18 valuation years 2005 through 2010.

19 (b) Property may not be classified under this paragraph for more than  
20 five years.

21 (c) Any new addition or improvement, constructed or installed from and  
22 after December 31, 2004 through December 31, 2010, to property already  
23 classified under this paragraph qualifies separately for classification and  
24 assessment under this paragraph for not more than five years.

25 (d) Property that is classified under this paragraph shall not  
26 thereafter be classified under paragraph 2, 3, 4, ~~or~~ 5 OR 9 of this section.

27 8. Real and personal property and improvements to the property that  
28 are used specifically and solely to manufacture from and after December 31,  
29 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent  
30 biodiesel and its by-products and that are valued at full cash value. This  
31 paragraph applies only to the portion of property that is used specifically  
32 for manufacturing and processing one hundred per cent biodiesel fuel, or its  
33 related by-products, from raw feedstock obtained from off-site sources,  
34 including necessary on-site storage facilities that are intrinsically  
35 associated with the manufacturing process. Any other commercial or  
36 industrial use disqualifies the entire property from classification under  
37 this paragraph.

38 9. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS CERTIFIED PURSUANT TO  
39 SECTION 41-1510.02, SUBSECTION C, PARAGRAPH 2, USED EXCLUSIVELY FOR SOLAR  
40 ENERGY TECHNOLOGIES MANUFACTURING OR REGIONAL, NATIONAL OR GLOBAL  
41 HEADQUARTERS OPERATIONS AS PROVIDED BY SECTION 42-12056. THIS PARAGRAPH  
42 APPLIES ONLY TO PROPERTY THAT IS USED IN MANUFACTURING AND HEADQUARTERS  
43 OPERATIONS OF SOLAR ENERGY COMPANIES, INCLUDING NECESSARY ON-SITE STORAGE  
44 FACILITIES THAT ARE ASSOCIATED WITH THE MANUFACTURING PROCESS. ANY OTHER  
45 COMMERCIAL OR INDUSTRIAL USE DISQUALIFIES THE ENTIRE PROPERTY FROM



1 CLASSIFICATION UNDER THIS PARAGRAPH. CLASSIFICATION UNDER THIS PARAGRAPH IS  
2 LIMITED TO THE TIME PERIODS DETERMINED BY THE DEPARTMENT OF COMMERCE PURSUANT  
3 TO SECTION 41-1510.02, SUBSECTION C, PARAGRAPH 2, SUBDIVISION (a) OR (b).  
4 PROPERTY THAT IS CLASSIFIED UNDER THIS PARAGRAPH SHALL NOT THEREAFTER BE  
5 CLASSIFIED UNDER ANY OTHER PARAGRAPH OF THIS CHAPTER.

6 Sec. 4. Title 42, chapter 12, article 2, Arizona Revised Statutes, is  
7 amended by adding section 42-12056, to read:

8 42-12056. Criteria for solar energy technologies property

9 A. TO QUALIFY FOR THE CLASSIFICATION AS CLASS SIX PURSUANT TO SECTION  
10 42-12006, PARAGRAPH 11, THE OWNER OF A MANUFACTURING FACILITY OR HEADQUARTERS  
11 FACILITY MUST BE CERTIFIED PURSUANT TO SECTION 41-1510.02, SUBSECTION C,  
12 PARAGRAPH 2 AND MUST PROVIDE DOCUMENTATION TO THE COUNTY ASSESSOR EACH YEAR  
13 THAT THE FACILITY IS EXCLUSIVELY DEDICATED TO MANUFACTURING SOLAR ENERGY  
14 TECHNOLOGIES MANUFACTURING OR REGIONAL, NATIONAL OR GLOBAL HEADQUARTERS  
15 OPERATIONS.

16 B. FOR THE PURPOSES OF THIS SECTION, SOLAR ENERGY TECHNOLOGIES ARE  
17 LIMITED TO SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL FOR THE  
18 MANUFACTURING OF SOLAR ENERGY DEVICES, AS DEFINED IN SECTION 44-1761, OR FOR  
19 THE GENERATION, STORAGE, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM  
20 SOLAR RENEWABLE RESOURCES, INCLUDING PHOTOVOLTAIC AND CONCENTRATED SOLAR  
21 POWER AND SOLAR THERMAL PROCESS USED IN GENERATING ELECTRICITY.

22 Sec. 5. Section 42-15006, Arizona Revised Statutes, is amended to  
23 read:

24 42-15006. Assessed valuation of class six property

25 The assessed valuation of class six property described in  
26 section 42-12006 is based on the following percentages to the full cash value  
27 or limited valuation of class six property, as applicable:

28 1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6,  
29 ~~and~~ 7 AND 9, five per cent.

30 2. Property described in section 42-12006, paragraph 4:

31 (a) For primary property tax purposes, five per cent.

32 (b) Except as provided in subdivision (c), for secondary property tax  
33 purposes:

34 (i) Twenty-five per cent through December 31, 2006.

35 (ii) Twenty-four per cent beginning from and after December 31, 2006  
36 through December 31, 2007.

37 (iii) Twenty-three per cent beginning from and after December 31, 2007  
38 through December 31, 2008.

39 (iv) Twenty-two per cent beginning from and after December 31, 2008  
40 through December 31, 2009.

41 (v) Twenty-one per cent beginning from and after December 31, 2009  
42 through December 31, 2010.

43 (vi) Twenty per cent beginning from and after December 31, 2010.

44 (c) If subdivision (b) is finally adjudicated to be invalid, for  
45 secondary property tax purposes, five per cent.

1       Sec. 6. Repeal

2       Section 43-222, Arizona Revised Statutes, is repealed.

3       Sec. 7. Title 43, chapter 2, article 2, Arizona Revised Statutes, is  
4 amended by adding a new section 43-222, to read:

5       43-222. Income tax credit review schedule

6       THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE SHALL REVIEW  
7 THE FOLLOWING INCOME TAX CREDITS:

8       1. FOR YEARS ENDING IN 0 AND 5, SECTIONS 43-1075, 43-1075.01,  
9 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,  
10 43-1175 AND 43-1182.

11       2. FOR YEARS ENDING IN 1 AND 6, SECTIONS 43-1074.02, 43-1083, 43-1085,  
12 43-1164 AND 43-1183.

13       3. FOR YEARS ENDING IN 2 AND 7, SECTIONS 43-1073, 43-1079, 43-1080,  
14 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1167, 43-1169, 43-1176  
15 AND 43-1181.

16       4. FOR YEARS ENDING IN 3 AND 8, SECTIONS 43-1074.01, 43-1081, 43-1168,  
17 43-1170 AND 43-1178.

18       5. FOR YEARS ENDING IN 4 AND 9, SECTIONS 43-1076, 43-1081.01,  
19 43-1083.01, 43-1084, 43-1162, 43-1164.01 AND 43-1170.01.

20       Sec. 8. Section 43-1074, Arizona Revised Statutes, is amended to read:

21       43-1074. Credit for increased employment in enterprise zones;  
22 definitions

23       A. A credit is allowed against the taxes imposed by this title for net  
24 increases in qualified employment positions of residents of this state by a  
25 business located in an enterprise zone established under title 41, chapter  
26 10, article 2, except employment positions at a zone location where more than  
27 ten per cent of the business conducted at the location consists of retail  
28 sales of tangible personal property, measured by either the number of  
29 employees assigned to retail sales or the square footage of the facility used  
30 for retail sales activities at the location in the zone. Retail sales and  
31 retail sales activities do not include:

32       1. Food and beverage for consumption on the premises solely by  
33 employees and occasional guests of employees at the location.

34       2. Promotional products not available for sale and displaying the  
35 company logo or trademark.

36       3. Products sold to company employees.

37       B. Subject to subsection E of this section, the amount of the credit  
38 is equal to:

39       1. One-fourth of the taxable wages paid to an employee in a qualified  
40 employment position, not to exceed five hundred dollars, in the first year or  
41 partial year of employment.

42       2. One-third of the taxable wages paid to an employee in a qualified  
43 employment position, not to exceed one thousand dollars per qualified  
44 employment position, in the second year of continuous employment.

1           3. One-half of the taxable wages paid to an employee in a qualified  
2 employment position, not to exceed one thousand five hundred dollars per  
3 qualified employment position, in the third year of continuous employment.

4           C. To qualify for a credit under this section:

5           1. All of the employees with respect to whom a credit is claimed must  
6 reside in this state.

7           2. Thirty-five per cent of the employees with respect to whom a credit  
8 is claimed for the first year of employment must reside on the date of  
9 employment in an enterprise zone that is located in the same county in which  
10 the business is located. If an employee for whom a credit was allowed in the  
11 first year of employment leaves employment during the second or third year,  
12 the taxpayer may substitute another employee who meets the requirements of  
13 paragraph 3 of this subsection and who was hired during the same year as the  
14 original employee. If the original employee was counted toward the residency  
15 requirement under this paragraph, the substitute employee must also have  
16 resided in a zone at the time the substitute was hired.

17           3. A qualified employment position must meet all of the following  
18 requirements:

19           (a) The position must be a minimum of one thousand seven hundred fifty  
20 hours per year of full-time and permanent employment.

21           (b) The job duties must be performed primarily at the zone locations  
22 of the business. If an eligible employee in a qualified employment position  
23 is transferred or assigned to work in the taxpayer's workplace at a different  
24 location that is also located in an enterprise zone and qualifies as a zone  
25 location, it may be considered to be continuous employment if it continues to  
26 meet all qualified employment position requirements.

27           (c) The employment must include health insurance coverage for the  
28 employee for which the employer pays at least fifty per cent of the premium  
29 or membership cost. If the taxpayer is self-insured, the taxpayer must pay  
30 at least fifty per cent of a predetermined fixed cost per employee for an  
31 insurance program that is payable whether or not the employee has filed  
32 claims.

33           (d) The employer must pay compensation at least equal to the wage  
34 offer by county as computed annually by the department of economic security  
35 research administration division.

36           (e) The employee must have been employed for at least ninety days  
37 during the first taxable year. An employee who is hired during the last  
38 ninety days of the taxable year shall be considered a new employee during the  
39 next taxable year. A qualified employment position that is filled during the  
40 last ninety days of the taxable year is considered to be a new qualified  
41 employment position for the next taxable year.

42           (f) The employee must not have been previously employed by the  
43 taxpayer within twelve months before the current date of hire.

1 D. A credit is allowed for employment in the second and third year  
2 only for qualified employment positions for which a credit was allowed and  
3 claimed by the taxpayer on the original first and second year tax  
4 returns. For the purposes of this subsection, the requirement to claim the  
5 credit on the original tax return does not apply to qualified employment  
6 positions created before January 1, 2002 and ~~were~~ certified to the department  
7 of commerce.

8 E. The net increase in the number of qualified employment positions is  
9 the lesser of the total number of filled qualified employment positions  
10 created in the zone during the tax year or the difference between the average  
11 number of full-time employees in the zone in the current tax year and the  
12 average number of full-time employees during the immediately preceding  
13 taxable year. The net increase in the number of qualified employment  
14 positions computed under this subsection shall not exceed two hundred  
15 qualified employment positions per taxpayer each year.

16 F. A taxpayer who claims a credit under section 43-1077, ~~or~~ 43-1079 OR  
17 43-1083.01 shall not claim a credit under this section with respect to the  
18 same ~~employees~~ EMPLOYMENT POSITIONS.

19 G. If the allowable tax credit exceeds the income taxes otherwise due  
20 on the claimant's income, or if there are no state income taxes due on the  
21 claimant's income, the amount of the claim not used as an offset against  
22 income taxes may be carried forward as a tax credit against subsequent  
23 taxable years' income tax liability, not to exceed five taxable years,  
24 provided the business remains in an enterprise zone.

25 H. Co-owners of a business, including partners in a partnership and  
26 shareholders of an S corporation, as defined in section 1361 of the internal  
27 revenue code, may each claim only the pro rata share of the credit allowed  
28 under this section based on the ownership interest. The total of the credits  
29 allowed all such owners of the business may not exceed the amount that would  
30 have been allowed for a sole owner of the business.

31 I. If a person purchases a business in a zone or changes ownership  
32 through reorganization, stock purchase or merger, the new taxpayer may claim  
33 first year credits only for one or more qualified employment positions that  
34 it created and filled with an eligible employee after the purchase or  
35 reorganization was complete. If a person purchases a taxpayer that had  
36 qualified for first or second year credits or changes ownership through  
37 reorganization, stock purchase or merger, the new taxpayer may claim the  
38 second or third year credits if it meets other eligibility requirements of  
39 this section. Credits for which a taxpayer qualified before the changes  
40 described in this subsection are terminated and lost at the time the changes  
41 are implemented.

J. A failure to timely report and certify to the department of commerce and the department of revenue the information prescribed by section 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by section 41-1525, subsection C, ~~disqualifies~~ the taxpayer from the credit under this section. The department of revenue shall require written evidence of the timely report to the department of commerce.

K. The termination of an enterprise zone does not affect the credit under this section with respect to:

1. Taxpayers who have employees in the second and third years of employment in qualified employment positions under subsections A, B and C of this section if the business remains in the location that was in the enterprise zone.

2. Amounts carried forward into subsequent taxable years under subsection G of this section.

L. The department may adopt rules necessary for the administration of this section.

M. For the purposes of this section:

1. "Assigned to retail" means working more than twenty-five per cent of an employee's time in one or more retail sales activities.

2. "Retail sales" means the sale of tangible personal property to an ultimate consumer.

3. "Retail sales activities" means all activities persons operating a retail business normally engage in, including taking orders, filling orders, billing orders, receiving and processing payment and shipping, stocking and delivering tangible personal property to the ultimate consumer, except drop shipments by a company acting on behalf of an unrelated company that has made a sale to a final consumer.

4. "Zone location" means a single parcel or contiguous parcels of owned or leased land, the structures and personal property contained on the land or any part of the structures occupied by a taxpayer.

Sec. 9. Section 43-1077, Arizona Revised Statutes, is amended to read:  
43-1077. Credit for employment by qualified defense contractor

A. A credit is allowed against the taxes imposed by this title for:

1. Net increases in employment under United States department of defense contracts during the taxable year, as computed under subsection D of this section, by a qualified defense contractor who is certified by the department of commerce under section 41-1508.

2. Net increases in private commercial employment during the taxable year, as computed under subsection E of this section, by a qualified defense contractor who is certified by the department of commerce under section 41-1508 due to full-time equivalent employee positions transferred during the taxable year by the taxpayer from exclusively defense related activities to employment by the taxpayer in exclusively private commercial activities.

B. The amount of the credit is a dollar amount allowed for each full-time equivalent employee position created, determined as follows:

|   |          |         |
|---|----------|---------|
| 1 | 1st year | \$2,500 |
| 2 | 2nd year | \$2,000 |
| 3 | 3rd year | \$1,500 |
| 4 | 4th year | \$1,000 |
| 5 | 5th year | \$ 500  |

6 C. If the allowable tax credit exceeds the taxes otherwise due under  
7 this title on the claimant's income, or if there are no taxes due under this  
8 title, the taxpayer may carry the amount of the claim not used to offset the  
9 taxes under this title forward until taxable years beginning from and after  
10 December 31, 2011 as a credit against subsequent years' income tax liability,  
11 regardless of continuing certification as a qualified defense contractor.

12 D. The net increase in employment under defense related contracts  
13 shall be determined as follows:

14 1. Establish an employment baseline for the taxpayer based on a  
15 multiyear forecast of employment on United States department of defense  
16 contracts that was submitted to the department of defense before June 1,  
17 1992. The annual average employment forecast for the first year the taxpayer  
18 qualified is the baseline. If the taxpayer did not make such a forecast  
19 before June 1, 1992, the baseline is the average annual employment as  
20 reported to the department of economic security during the preceding taxable  
21 year. If a taxpayer qualifies in the same year it relocates into this state,  
22 the taxpayer's baseline is zero.

23 2. For the first year of the credit, the taxpayer's net increase in  
24 average employment is the increase in employment reported to the department  
25 of economic security for the taxable year over the employment baseline.

26 3. For each succeeding year of the credit, the taxpayer's net increase  
27 in average employment is the increase in employment reported to the  
28 department of economic security for the taxable year over the preceding  
29 taxable year's average employment.

30 E. In computing the amount of credit allowed under subsection A,  
31 paragraph 2 of this section, the taxpayer shall:

32 1. Prorate employment during the taxable year according to the date of  
33 transfer from defense to private commercial activities or the date of  
34 transfer from private commercial activities to defense.

35 2. Compute and subtract an amount pursuant to subsection B of this  
36 section for full-time equivalent employee positions that were transferred  
37 during the taxable year by the taxpayer from exclusively private commercial  
38 activities to exclusively defense related activities.

39 F. The taxpayer shall account for qualifying full-time equivalent  
40 employee positions on a first-in first-out basis. If a decrease in  
41 qualifying employment occurs, the taxpayer shall subtract the decrease from  
42 the earliest qualifying positions.

43 G. A credit is not allowed under both subsection A, paragraphs 1 and 2  
44 of this section with respect to the same employee position. A full-time  
45 equivalent employee position may be considered for purposes of computing the

1 credit under either subsection A, paragraph 1 or 2 of this section, but not  
2 both.

3 H. A credit is not allowed under this section with respect to  
4 employment that was transferred from an outside contractor in this state to  
5 in-house employment by the taxpayer solely for purposes of qualifying for the  
6 credit.

7 I. A taxpayer who claims a credit under section 43-1074, ~~or~~ 43-1079 OR  
8 43-1083.01 may not claim a credit under this section with respect to the same  
9 ~~employees~~ EMPLOYEE POSITIONS.

10 J. Co-owners of a business, including partners in a partnership and  
11 shareholders of an S corporation, as defined in section 1361 of the internal  
12 revenue code, may each claim only the pro rata share of the credit allowed  
13 under this section based on the ownership interest. The total of the credits  
14 allowed all such owners may not exceed the amount that would have been  
15 allowed for a sole owner of the business.

16 Sec. 10. Section 43-1079, Arizona Revised Statutes, is amended to  
17 read:

18 43-1079. Credit for increased employment in military reuse  
19 zones; definition

20 A. A credit is allowed against the taxes imposed by this title for net  
21 increases in employment by the taxpayer of full-time employees working in a  
22 military reuse zone, established under title 41, chapter 10, article 3, and  
23 who are primarily engaged in providing aviation or aerospace services or in  
24 manufacturing, assembling or fabricating aviation or aerospace products. The  
25 amount of the credit is a dollar amount allowed for each new employee,  
26 determined as follows:

27 1. With respect to each employee other than a dislocated military base  
28 employee:

|                           |         |
|---------------------------|---------|
| 29 1st year of employment | \$ 500  |
| 30 2nd year of employment | \$1,000 |
| 31 3rd year of employment | \$1,500 |
| 32 4th year of employment | \$2,000 |
| 33 5th year of employment | \$2,500 |

34 2. With respect to each dislocated military base employee:

|                           |         |
|---------------------------|---------|
| 35 1st year of employment | \$1,000 |
| 36 2nd year of employment | \$1,500 |
| 37 3rd year of employment | \$2,000 |
| 38 4th year of employment | \$2,500 |
| 39 5th year of employment | \$3,000 |

40 B. If the allowable tax credit exceeds the taxes otherwise due under  
41 this title on the claimant's income, or if there are no taxes due under this  
42 title, the amount of the claim not used to offset the taxes under this title  
43 may be carried forward as a credit against subsequent years' income tax  
44 liability for the period, not to exceed five taxable years, if the business  
45 remains in the military reuse zone.

C. The net increase in the number of employees for purposes of this section shall be determined by comparing the taxpayer's average employment in the military reuse zone during the taxable year with the taxpayer's previous year's fourth quarter employment in the zone, based on the taxpayer's report to the department of economic security for unemployment insurance purposes but considering only employment in the zone.

D. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

E. A credit is not allowed under this section with respect to an employee whose place of employment is relocated by the taxpayer from a location in this state to the military reuse zone, unless the employee is engaged in aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products and the taxpayer maintains at least the same number of employees in this state but outside the zone.

F. A taxpayer who claims a credit under section 43-1074, ~~or~~ 43-1077 OR 43-1083.01 may not claim a credit under this section with respect to the same employees.

G. For the purposes of this section, "dislocated military base employee" means a civilian who previously had permanent full-time civilian employment on the military facility as of the date the closure of the facility was finally determined under federal law, as certified by the department of commerce.

Sec. 11. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1083.01, to read:

43-1083.01. Credit for solar energy industry

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFIED INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING QUALIFIED SOLAR ENERGY TECHNOLOGIES OPERATIONS IN THIS STATE. TO QUALIFY FOR THE CREDIT, THE TAXPAYER MUST INVEST IN SOLAR ENERGY TECHNOLOGIES MANUFACTURING, OR IN NEW REGIONAL, NATIONAL OR GLOBAL SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS, IN THIS STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB DUTIES ARE PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT AS PROVIDED BY SECTION 41-1510.02.

B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:

1. TEN PER CENT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN PROJECTS MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:

(a) FOR QUALIFYING SOLAR ENERGY TECHNOLOGIES MANUFACTURING OPERATIONS, AT LEAST ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS FOR EACH FIVE HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.



1 (b) FOR QUALIFYING SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS, AT  
2 LEAST ONE NEW FULL-TIME EMPLOYMENT POSITION FOR EACH TWO HUNDRED THOUSAND  
3 DOLLAR INCREMENT OF CAPITAL INVESTMENT.

4 2. FOR A QUALIFYING SOLAR ENERGY TECHNOLOGIES PROJECT THAT DOES NOT  
5 MEET THE EMPLOYMENT REQUIREMENTS PRESCRIBED BY PARAGRAPH 1, TEN PER CENT OF  
6 THE AMOUNT COMPUTED AS FOLLOWS:

7 (a) FIVE HUNDRED THOUSAND DOLLARS PER ONE AND ONE-HALF NEW FULL-TIME  
8 EMPLOYMENT POSITIONS IN NEW SOLAR ENERGY TECHNOLOGIES MANUFACTURING  
9 OPERATIONS.

10 (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT  
11 POSITION AT A NEW SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS.

12 (c) THE AMOUNT OF CREDIT UNDER THIS PARAGRAPH SHALL NOT EXCEED TEN PER  
13 CENT OF THE AMOUNT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT.

14 3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OR 2 OF THIS  
15 SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE  
16 EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.

17 C. TO CLAIM THE CREDIT THE TAXPAYER MUST:

18 1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1510.02.

19 2. SUBMIT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION  
20 ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF COMMERCE.

21 D. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE  
22 BEEN EMPLOYED AT THE QUALIFYING BUSINESS LOCATION FOR AT LEAST NINETY DAYS  
23 DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT  
24 LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS  
25 HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A  
26 NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF  
27 THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT  
28 HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE  
29 CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH  
30 THE REQUIREMENTS OF SECTION 41-1510.02 AND CERTIFICATION BY THE DEPARTMENT OF  
31 COMMERCE.

32 E. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP AND  
33 SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF THE INTERNAL  
34 REVENUE CODE, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED  
35 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS  
36 ALLOWED ALL SUCH OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD  
37 HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

38 F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME  
39 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME  
40 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN  
41 OFFSET AGAINST INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST  
42 SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE  
43 TAXABLE YEARS, AND SUBJECT TO CONTINUING CERTIFICATION UNDER SECTION  
44 41-1510.02.

1 G. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION  
2 MAY BE SOLD OR OTHERWISE TRANSFERRED, UNDER TERMS MUTUALLY AGREEABLE BETWEEN  
3 THE TRANSFEROR AND TRANSFEREE, BUT SUBJECT TO THE FOLLOWING CONDITIONS:

4 1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND  
5 ANY TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME  
6 CONDITIONS OF THIS SUBSECTION.

7 2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF  
8 THE TRANSFER TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS AFTER THE SALE  
9 OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO  
10 ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS,  
11 WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

12 (a) THE NAMES OF THE TRANSFEROR AND TRANSFEREE.

13 (b) THE DATE OF THE TRANSFER.

14 (c) THE AMOUNT OF THE TRANSFER.

15 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE  
16 REMAINING BALANCE AFTER THE TRANSFER.

17 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

18 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

19 3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH  
20 THE CREDIT CAN BE USED. THE TRANSFEREE MUST TAKE THE CREDIT IN FIVE EQUAL  
21 ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS AS DESCRIBED IN  
22 SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

23 4. THE TRANSFEROR, AT ITS EXPENSE, MUST ENTER INTO A LIMITED MANAGED  
24 AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN  
25 AUDIT OF THE REQUIREMENTS PRESCRIBED BY SECTION 41-1510.02 AND BY THIS  
26 SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST  
27 TO ENTER INTO THE AUDIT MUST BE MADE AFTER THE TAXPAYER IS CERTIFIED PURSUANT  
28 TO SECTION 41-1510.02, SUBSECTION F. THE AUDIT MUST BE CONDUCTED BY THE  
29 TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED BY SECTION 42-2301, WHO IS  
30 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE  
31 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS  
32 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ANY  
33 AFFILIATE OF THE TAXPAYER. IF THE DEPARTMENT OF REVENUE ACCEPTS THE FINDINGS  
34 OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303  
35 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURNS WITH THE APPROPRIATE  
36 CREDIT CLAIM FORMS, THE CREDIT AMOUNT MAY BE TRANSFERRED. THE DEPARTMENT  
37 SHALL ISSUE A NOTICE OF DETERMINATION INCLUDING A WRITTEN CERTIFICATE TO THE  
38 TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT MAY BE  
39 TRANSFERRED. THIS PARAGRAPH DOES NOT PREVENT RECAPTURE OF A CREDIT AMOUNT IF  
40 THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR  
41 FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT  
42 PREVENTED AN ACCURATE AUDIT.

43 H. EXCEPT AS PROVIDED BY SUBSECTION I OF THIS SECTION, IF, WITHIN TEN  
44 TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE  
45 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER

SECTION 41-1510.02, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS AS DETERMINED BY THE DEPARTMENT OF COMMERCE, THE TAXPAYER IS PERMANENTLY DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS AND THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. IF THE CREDIT HAS BEEN TRANSFERRED PURSUANT TO SUBSECTION G OF THIS SECTION, ANY RECAPTURE PURSUANT TO THIS SUBSECTION IS FROM THE ORIGINAL TAXPAYER. THIS SUBSECTION APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A CERTIFICATION OF QUALIFICATION UNDER SECTION 41-1510.02. THIS SUBSECTION DOES NOT APPLY IF, IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR OR FAILS TO CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY ALLOWED UNDER THIS SECTION WITH ANNUAL SIMPLE INTEREST EQUAL TO THE PRIME RATE CHARGED BY BANKS ON SHORT-TERM BUSINESS LOANS AS DETERMINED FOR PUBLICATION IN THE BULLETIN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM AS OF THE FIRST DAY OF EACH TAXABLE YEAR, PLUS TWO PER CENT.

I. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1074, 43-1077 OR 43-1079 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME FULL-TIME EMPLOYMENT POSITIONS.

J. FOR THE PURPOSES OF THIS SECTION, SOLAR ENERGY TECHNOLOGIES ARE LIMITED TO SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL FOR THE MANUFACTURING OF SOLAR ENERGY DEVICES, AS DEFINED IN SECTION 44-1761, OR FOR THE GENERATION, STORAGE, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM SOLAR RENEWABLE RESOURCES, INCLUDING PHOTOVOLTAIC AND CONCENTRATED SOLAR POWER AND SOLAR THERMAL PROCESS USED OR USEFUL IN GENERATING ELECTRICITY.

Sec. 12. Section 43-1161, Arizona Revised Statutes, is amended to read:

43-1161. Credit for increased employment in enterprise zones: definitions

A. A credit is allowed against the taxes imposed by this title for net increases in qualified employment positions of residents of this state by a business located in an enterprise zone established under title 41, chapter 10, article 2, except employment positions at a zone location where more than ten per cent of the business conducted at the location consists of retail sales of tangible personal property, measured by either the number of employees assigned to retail sales or the square footage of the facility used for retail sales activities at the location in the zone. Retail sales and retail sales activities do not include:

1. Food and beverage for consumption on the premises solely by employees and occasional guests of employees at the location.
2. Promotional products not available for sale and displaying the company logo or trademark.
3. Products sold to company employees.

1           B. Subject to subsection E of this section, the amount of the credit  
2 is equal to:

3           1. One-fourth of the taxable wages paid to an employee in a qualified  
4 employment position, not to exceed five hundred dollars, in the first year or  
5 partial year of employment.

6           2. One-third of the taxable wages paid to an employee in a qualified  
7 employment position, not to exceed one thousand dollars per qualified  
8 employment position, in the second year of continuous employment.

9           3. One-half of the taxable wages paid to an employee in a qualified  
10 employment position, not to exceed one thousand five hundred dollars per  
11 qualified employment position, in the third year of continuous employment.

12           C. To qualify for a credit under this section:

13           1. All of the employees with respect to whom a credit is claimed must  
14 reside in this state.

15           2. Thirty-five per cent of the employees with respect to whom a credit  
16 is claimed for the first year of employment must reside on the date of hire  
17 in an enterprise zone that is located in the same county in which the  
18 business is located. If an employee for whom a credit was allowed in the  
19 first year of employment leaves employment during the second or third year,  
20 the taxpayer may substitute another employee who meets the requirements of  
21 paragraph 3 of this subsection and who was hired during the same year as the  
22 original employee. If the original employee was counted toward the residency  
23 requirement under this paragraph, the substitute employee must also have  
24 resided in a zone at the time the substitute was hired.

25           3. A qualified employment position must meet all of the following  
26 requirements:

27           (a) The position must be a minimum of one thousand seven hundred fifty  
28 hours per year of full-time and permanent employment.

29           (b) The job duties must be performed primarily at the zone locations  
30 of the business. If an eligible employee in a qualified employment position  
31 is transferred or assigned to work in the taxpayer's workplace at a different  
32 location that is also located in an enterprise zone and qualifies as a zone  
33 location, it may be considered to be continuous employment if it continues to  
34 meet all qualified employment position requirements.

35           (c) The employment must include health insurance coverage for the  
36 employee for which the employer pays at least fifty per cent of the premium  
37 or membership cost. If the taxpayer is self-insured, the taxpayer must pay  
38 at least fifty per cent of a predetermined fixed cost per employee for an  
39 insurance program that is payable whether or not the employee has filed  
40 claims.

41           (d) The employer must pay compensation at least equal to the wage  
42 offer by county as computed annually by the department of economic security  
43 research administration division.

1 (e) The employee must have been employed for at least ninety days  
2 during the first taxable year. An employee who is hired during the last  
3 ninety days of the taxable year shall be considered a new employee during the  
4 next taxable year. A qualified employment position that is filled during the  
5 last ninety days of the taxable year is considered to be a new qualified  
6 employment position for the next taxable year.

7 (f) The employee must not have been previously employed by the  
8 taxpayer within twelve months before the current date of hire.

9 D. A credit is allowed for employment in the second and third year  
10 only for qualified employment positions for which a credit was allowed and  
11 claimed by the taxpayer on the original first and second year tax returns.  
12 For the purposes of this subsection, the requirement to claim the credit on  
13 the original tax return does not apply to qualified employment positions  
14 created before January 1, 2002 and ~~were~~ certified to the department of  
15 commerce.

16 E. The net increase in the number of qualified employment positions is  
17 the lesser of the total number of filled qualified employment positions  
18 created in the zone during the tax year or the difference between the average  
19 number of full-time employees in the zone in the current tax year and the  
20 average number of full-time employees during the immediately preceding  
21 taxable year. The net increase in the number of qualified employment  
22 positions computed under this subsection may not exceed two hundred qualified  
23 employment positions per taxpayer each year.

24 F. A taxpayer who claims a credit under section [43-1164.01](#), 43-1165 or  
25 43-1167 may not claim a credit under this section with respect to the same  
26 ~~employees~~ EMPLOYMENT POSITIONS.

27 G. If the allowable tax credit exceeds the income taxes otherwise due  
28 on the claimant's income, or if there are no state income taxes due on the  
29 claimant's income, the amount of the claim not used as an offset against  
30 income taxes may be carried forward as a tax credit against subsequent years'  
31 income tax liability for the period, not to exceed five taxable years,  
32 provided the business remains in an enterprise zone.

33 H. Co-owners of a business, including partners in a partnership, may  
34 each claim only the pro rata share of the credit allowed under this section  
35 based on the ownership interest. The total of the credits allowed all such  
36 owners of the business may not exceed the amount that would have been allowed  
37 for a sole owner of the business.

38 I. If a person purchases a business in a zone or changes ownership  
39 through reorganization, stock purchase or merger, the new taxpayer may claim  
40 first year credits only for one or more qualified employment positions that  
41 it created and filled with an eligible employee after the purchase or  
42 reorganization was complete. If a person purchases a taxpayer that had  
43 qualified for first or second year credits or changes ownership through  
44 reorganization, stock purchase or merger, the new taxpayer may claim the  
45 second or third year credits if it meets other eligibility requirements of

1 this section. Credits for which a taxpayer qualified before the changes  
2 described in this subsection are terminated and lost at the time the changes  
3 are implemented.

4 J. A failure to timely report and certify to the department of  
5 commerce and the department of revenue the information prescribed by section  
6 41-1525, subsection B, paragraphs 1, 2 and 3 and in the manner prescribed by  
7 section 41-1525, subsection C, ~~disqualifies~~ the taxpayer from the credit  
8 under this section. The department of revenue shall require written evidence  
9 of the timely report to the department of commerce.

10 K. The termination of an enterprise zone does not affect the credit  
11 under this section with respect to:

12 1. Taxpayers that have employees in the second and third years of  
13 employment in qualified employment positions under subsections A, B and C of  
14 this section if the business remains in the location that was in the  
15 enterprise zone.

16 2. Amounts carried forward into subsequent taxable years under  
17 subsection G of this section.

18 L. The department may adopt rules necessary for the administration of  
19 this section.

20 M. For the purposes of this section:

21 1. "Assigned to retail" means working more than twenty-five per cent  
22 of an employee's time in one or more retail sales activities.

23 2. "Retail sales" means the sale of tangible personal property to an  
24 ultimate consumer.

25 3. "Retail sales activities" means all activities persons operating a  
26 retail business normally engage in, including taking orders, filling orders,  
27 billing orders, receiving and processing payment and shipping, stocking and  
28 delivering tangible personal property to the ultimate consumer, except drop  
29 shipments by a company acting on behalf of an unrelated company that has made  
30 a sale to a final consumer.

31 4. "Zone location" means a single parcel or contiguous parcels of  
32 owned or leased land, the structures and personal property contained on the  
33 land or any part of the structures occupied by a taxpayer.

34 Sec. 13. Title 43, chapter 11, article 6, Arizona Revised Statutes, is  
35 amended by adding section 43-1164.01, to read:

36 43-1164.01. Credit for solar energy industry

37 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2009, A  
38 CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR QUALIFIED  
39 INVESTMENT AND EMPLOYMENT IN EXPANDING OR LOCATING QUALIFIED SOLAR ENERGY  
40 TECHNOLOGIES OPERATIONS IN THIS STATE. TO QUALIFY FOR THE CREDIT, THE  
41 TAXPAYER MUST INVEST IN SOLAR ENERGY TECHNOLOGIES MANUFACTURING, OR IN NEW  
42 REGIONAL, NATIONAL OR GLOBAL SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS,  
43 IN THIS STATE AND PRODUCE NEW FULL-TIME EMPLOYMENT POSITIONS WHERE THE JOB  
44 DUTIES ARE PERFORMED AT THE LOCATION OF THE QUALIFYING INVESTMENT AS PROVIDED  
45 BY SECTION 41-1510.02.

1           B. THE AMOUNT OF THE CREDIT IS COMPUTED AS FOLLOWS:  
2           1. TEN PER CENT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT IN PROJECTS  
3 MEETING THE FOLLOWING MINIMUM EMPLOYMENT REQUIREMENTS:  
4           (a) FOR QUALIFYING SOLAR ENERGY TECHNOLOGIES MANUFACTURING OPERATIONS,  
5 AT LEAST ONE AND ONE-HALF NEW FULL-TIME EMPLOYMENT POSITIONS FOR EACH FIVE  
6 HUNDRED THOUSAND DOLLAR INCREMENT OF CAPITAL INVESTMENT.  
7           (b) FOR QUALIFYING SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS, AT  
8 LEAST ONE NEW FULL-TIME EMPLOYMENT POSITION FOR EACH TWO HUNDRED THOUSAND  
9 DOLLAR INCREMENT OF CAPITAL INVESTMENT.  
10          2. FOR A QUALIFYING SOLAR ENERGY TECHNOLOGIES PROJECT THAT DOES NOT  
11 MEET THE EMPLOYMENT REQUIREMENTS PRESCRIBED BY PARAGRAPH 1, TEN PER CENT OF  
12 THE AMOUNT COMPUTED AS FOLLOWS:  
13          (a) FIVE HUNDRED THOUSAND DOLLARS PER ONE AND ONE-HALF NEW FULL-TIME  
14 EMPLOYMENT POSITIONS IN NEW SOLAR ENERGY TECHNOLOGIES MANUFACTURING  
15 OPERATIONS.  
16          (b) TWO HUNDRED THOUSAND DOLLARS FOR EACH NEW FULL-TIME EMPLOYMENT  
17 POSITION AT A NEW SOLAR ENERGY TECHNOLOGIES BUSINESS HEADQUARTERS.  
18          (c) THE AMOUNT OF CREDIT UNDER THIS PARAGRAPH SHALL NOT EXCEED TEN PER  
19 CENT OF THE AMOUNT OF THE TAXPAYER'S TOTAL CAPITAL INVESTMENT.  
20          3. THE CREDIT AMOUNT COMPUTED UNDER PARAGRAPH 1 OR 2 OF THIS  
21 SUBSECTION IS APPORTIONED, AND THE TAXPAYER SHALL CLAIM THE CREDIT IN FIVE  
22 EQUAL ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS.  
23          C. TO CLAIM THE CREDIT THE TAXPAYER MUST:  
24          1. CONDUCT A BUSINESS THAT QUALIFIES UNDER SECTION 41-1510.02.  
25          2. SUBMIT A COPY OF A CURRENT AND VALID CERTIFICATION OF QUALIFICATION  
26 ISSUED TO THE TAXPAYER BY THE DEPARTMENT OF COMMERCE.  
27          D. TO BE COUNTED FOR THE PURPOSES OF THE CREDIT, AN EMPLOYEE MUST HAVE  
28 BEEN EMPLOYED AT THE QUALIFYING BUSINESS LOCATION FOR AT LEAST NINETY DAYS  
29 DURING THE TAXABLE YEAR IN A PERMANENT FULL-TIME EMPLOYMENT POSITION OF AT  
30 LEAST ONE THOUSAND SEVEN HUNDRED FIFTY HOURS PER YEAR. AN EMPLOYEE WHO IS  
31 HIRED DURING THE LAST NINETY DAYS OF THE TAXABLE YEAR SHALL BE CONSIDERED A  
32 NEW EMPLOYEE DURING THE NEXT TAXABLE YEAR. TO BE COUNTED FOR THE PURPOSES OF  
33 THE CREDIT DURING THE FIRST TAXABLE YEAR OF EMPLOYMENT, THE EMPLOYEE MUST NOT  
34 HAVE BEEN PREVIOUSLY EMPLOYED BY THE TAXPAYER WITHIN TWELVE MONTHS BEFORE THE  
35 CURRENT DATE OF HIRE. THE TERMS OF EMPLOYMENT MUST COMPLY IN ALL CASES WITH  
36 THE REQUIREMENTS OF SECTION 41-1510.02 AND CERTIFICATION BY THE DEPARTMENT OF  
37 COMMERCE.  
38          E. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP, MAY  
39 EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION  
40 BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH  
41 OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED  
42 FOR A SOLE OWNER OF THE BUSINESS.  
43          F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME  
44 TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME  
45 TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN

1 OFFSET AGAINST INCOME TAXES MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST  
2 SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED FIVE  
3 TAXABLE YEARS, AND SUBJECT TO CONTINUING CERTIFICATION UNDER SECTION  
4 41-1510.02.

5 G. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION  
6 MAY BE SOLD OR OTHERWISE TRANSFERRED, UNDER TERMS MUTUALLY AGREEABLE BETWEEN  
7 THE TRANSFEROR AND TRANSFEREE, BUT SUBJECT TO THE FOLLOWING CONDITIONS:

8 1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND  
9 ANY TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME  
10 CONDITIONS OF THIS SUBSECTION.

11 2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF  
12 THE TRANSFER TO THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS AFTER THE SALE  
13 OR TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO  
14 ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS,  
15 WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

16 (a) THE NAMES OF THE TRANSFEROR AND TRANSFEREE.

17 (b) THE DATE OF THE TRANSFER.

18 (c) THE AMOUNT OF THE TRANSFER.

19 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE  
20 REMAINING BALANCE AFTER THE TRANSFER.

21 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

22 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

23 3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH  
24 THE CREDIT CAN BE USED. THE TRANSFEREE MUST TAKE THE CREDIT IN FIVE EQUAL  
25 ANNUAL INSTALLMENTS IN EACH OF FIVE CONSECUTIVE TAXABLE YEARS AS DESCRIBED IN  
26 SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

27 4. THE TRANSFEROR, AT ITS EXPENSE, MUST ENTER INTO A LIMITED MANAGED  
28 AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN  
29 AUDIT OF THE REQUIREMENTS PRESCRIBED BY SECTION 41-1510.02 AND BY THIS  
30 SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE REQUEST  
31 TO ENTER INTO THE AUDIT MUST BE MADE AFTER THE TAXPAYER IS CERTIFIED PURSUANT  
32 TO SECTION 41-1510.02, SUBSECTION F. THE AUDIT MUST BE CONDUCTED BY THE  
33 TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED BY SECTION 42-2301, WHO IS  
34 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE  
35 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS  
36 AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE TAXPAYER OR ANY  
37 AFFILIATE OF THE TAXPAYER. IF THE DEPARTMENT OF REVENUE ACCEPTS THE FINDINGS  
38 OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303  
39 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURNS WITH THE APPROPRIATE  
40 CREDIT CLAIM FORMS, THE CREDIT AMOUNT MAY BE TRANSFERRED. THE DEPARTMENT  
41 SHALL ISSUE A NOTICE OF DETERMINATION INCLUDING A WRITTEN CERTIFICATE TO THE  
42 TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT MAY BE  
43 TRANSFERRED. THIS PARAGRAPH DOES NOT PREVENT RECAPTURE OF A CREDIT AMOUNT IF  
44 THE TAXPAYER FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR



1 FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT  
2 PREVENTED AN ACCURATE AUDIT.

3 H. EXCEPT AS PROVIDED BY SUBSECTION I OF THIS SECTION, IF, WITHIN TEN  
4 TAXABLE YEARS AFTER FIRST RECEIVING A CREDIT PURSUANT TO THIS SECTION, THE  
5 CERTIFICATION OF QUALIFICATION OF A BUSINESS IS TERMINATED OR REVOKED UNDER  
6 SECTION 41-1510.02, OTHER THAN FOR REASONS BEYOND THE CONTROL OF THE BUSINESS  
7 AS DETERMINED BY THE DEPARTMENT OF COMMERCE, THE TAXPAYER IS PERMANENTLY  
8 DISQUALIFIED FROM CREDITS UNDER THIS SECTION IN SUBSEQUENT TAXABLE YEARS AND  
9 THE CREDITS ALLOWED THE TAXPAYER IN ALL TAXABLE YEARS PURSUANT TO THIS  
10 SECTION ARE SUBJECT TO RECAPTURE PURSUANT TO THIS SUBSECTION. IF THE CREDIT  
11 HAS BEEN TRANSFERRED PURSUANT TO SUBSECTION G OF THIS SECTION, ANY RECAPTURE  
12 PURSUANT TO THIS SUBSECTION IS FROM THE ORIGINAL TAXPAYER. THIS SUBSECTION  
13 APPLIES ONLY IN THE CASE OF THE TERMINATION OR REVOCATION OF A CERTIFICATION  
14 OF QUALIFICATION UNDER SECTION 41-1510.02. THIS SUBSECTION DOES NOT APPLY  
15 IF, IN ANY TAXABLE YEAR, A TAXPAYER OTHERWISE DOES NOT QUALIFY FOR OR FAILS  
16 TO CLAIM THE CREDIT UNDER THIS SECTION. THE RECAPTURE OF CREDITS IS COMPUTED  
17 BY INCREASING THE AMOUNT OF TAXES IMPOSED IN THE YEAR FOLLOWING THE YEAR OF  
18 TERMINATION OR REVOCATION BY THE FULL AMOUNT OF ALL CREDITS PREVIOUSLY  
19 ALLOWED UNDER THIS SECTION WITH ANNUAL SIMPLE INTEREST EQUAL TO THE PRIME  
20 RATE CHARGED BY BANKS ON SHORT-TERM BUSINESS LOANS AS DETERMINED FOR  
21 PUBLICATION IN THE BULLETIN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE  
22 SYSTEM AS OF THE FIRST DAY OF EACH TAXABLE YEAR, PLUS TWO PER CENT.

23 I. A TAXPAYER WHO CLAIMS A CREDIT UNDER SECTION 43-1161, 43-1165 OR  
24 43-1167 MAY NOT CLAIM A CREDIT UNDER THIS SECTION WITH RESPECT TO THE SAME  
25 FULL-TIME EMPLOYMENT POSITIONS.

26 J. FOR THE PURPOSES OF THIS SECTION SOLAR ENERGY TECHNOLOGIES ARE  
27 LIMITED TO SYSTEMS AND COMPONENTS THAT ARE USED OR USEFUL FOR THE  
28 MANUFACTURING OF SOLAR ENERGY DEVICES, AS DEFINED IN SECTION 44-1761, OR FOR  
29 THE GENERATION, STORAGE, TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM  
30 SOLAR RENEWABLE RESOURCES, INCLUDING PHOTOVOLTAIC AND CONCENTRATED SOLAR  
31 POWER AND SOLAR THERMAL PROCESS USED OR USEFUL IN GENERATING ELECTRICITY.

32 Sec. 14. Section 43-1165, Arizona Revised Statutes, is amended to  
33 read:

34 43-1165. Credit for employment by qualified defense contractor

35 A. A credit is allowed against the taxes imposed by this title for:

36 1. Net increases in employment under United States department of  
37 defense contracts during the taxable year, as computed under subsection D of  
38 this section, by a qualified defense contractor that is certified by the  
39 department of commerce under section 41-1508.

40 2. Net increases in private commercial employment during the taxable  
41 year, as computed under subsection E of this section, by a qualified defense  
42 contractor that is certified by the department of commerce under section  
43 41-1508 due to full-time equivalent employee positions transferred during the  
44 taxable year by the taxpayer from exclusively defense related activities to  
45 employment by the taxpayer in exclusively private commercial activities.

1           B. The amount of the credit is a dollar amount allowed for each  
2 full-time equivalent employee position created, determined as follows:

|                      |         |
|----------------------|---------|
| 3           1st year | \$2,500 |
| 4           2nd year | \$2,000 |
| 5           3rd year | \$1,500 |
| 6           4th year | \$1,000 |
| 7           5th year | \$ 500  |

8           C. If the allowable tax credit exceeds the taxes otherwise due under  
9 this title on the claimant's income, or if there are no taxes due under this  
10 title, the taxpayer may carry the amount of the claim not used to offset the  
11 taxes under this title forward until taxable years beginning from and after  
12 December 31, 2011 as a credit against subsequent years' income tax liability,  
13 regardless of continuing certification as a qualified defense contractor.

14           D. The net increase in employment under defense related contracts  
15 shall be determined as follows:

16           1. Establish an employment baseline for the taxpayer based on a  
17 multiyear forecast of employment on United States department of defense  
18 contracts that was submitted to the department of defense before June 1,  
19 1992. The annual average employment forecast for the first year the taxpayer  
20 qualified is the baseline. If the taxpayer did not make such a forecast  
21 before June 1, 1992, the baseline is the average annual employment as  
22 reported to the department of economic security during the preceding taxable  
23 year. If a taxpayer qualifies in the same year it relocates into this state,  
24 the taxpayer's baseline is zero.

25           2. For the first year of the credit, the taxpayer's net increase in  
26 average employment is the increase in employment reported to the department  
27 of economic security for the taxable year over the employment baseline.

28           3. For each succeeding year of the credit, the taxpayer's net increase  
29 in average employment is the increase in employment reported to the  
30 department of economic security for the taxable year over the preceding  
31 taxable year's average employment.

32           E. In computing the amount of credit allowed under subsection A,  
33 paragraph 2 of this section, the taxpayer shall:

34           1. Prorate employment during the taxable year according to the date of  
35 transfer from defense to private commercial activities or the date of  
36 transfer from private commercial activities to defense.

37           2. Compute and subtract an amount pursuant to subsection B of this  
38 section for full-time equivalent employee positions that were transferred  
39 during the taxable year by the taxpayer from exclusively private commercial  
40 activities to exclusively defense related activities.

41           F. The taxpayer shall account for qualifying full-time equivalent  
42 employee positions on a first-in first-out basis. If a decrease in  
43 qualifying employment occurs, the taxpayer shall subtract the decrease from  
44 the earliest qualifying positions.

G. A credit is not allowed under both subsection A, paragraphs 1 and 2 of this section with respect to the same employee position. A full-time equivalent employee position may be considered for purposes of computing the credit under either subsection A, paragraph 1 or 2 of this section, but not both.

H. A credit is not allowed under this section with respect to employment that was transferred from an outside contractor in this state to in-house employment by the taxpayer solely for purposes of qualifying for the credit.

I. A taxpayer that claims a credit under section 43-1161, 43-1164.01 or 43-1167 may not claim a credit under this section with respect to the same ~~employees~~ EMPLOYEE POSITIONS.

J. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

Sec. 15. Section 43-1167, Arizona Revised Statutes, is amended to read:

43-1167. Credit for increased employment in military reuse zones; definition

A. A credit is allowed against the taxes imposed by this title for net increases in employment by the taxpayer of full-time employees working in a military reuse zone, established under title 41, chapter 10, article 3, and who are primarily engaged in providing aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products. The amount of the credit is a dollar amount allowed for each new employee, determined as follows:

1. With respect to each employee other than a dislocated military base employee:

|                        |         |
|------------------------|---------|
| 1st year of employment | \$ 500  |
| 2nd year of employment | \$1,000 |
| 3rd year of employment | \$1,500 |
| 4th year of employment | \$2,000 |
| 5th year of employment | \$2,500 |

2. With respect to each dislocated military base employee:

|                        |         |
|------------------------|---------|
| 1st year of employment | \$1,000 |
| 2nd year of employment | \$1,500 |
| 3rd year of employment | \$2,000 |
| 4th year of employment | \$2,500 |
| 5th year of employment | \$3,000 |

B. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the claim not used to offset the taxes under this title may be carried forward as a credit against subsequent years' income tax

liability for the period, not to exceed five taxable years, if the business remains in the military reuse zone.

C. The net increase in the number of employees for purposes of this section shall be determined by comparing the taxpayer's average employment in the military reuse zone during the taxable year with the taxpayer's previous year's fourth quarter employment in the zone, based on the taxpayer's report to the department of economic security for unemployment insurance purposes but considering only employment in the zone.

D. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.

E. A credit is not allowed under this section with respect to an employee whose place of employment is relocated by the taxpayer from a location in this state to the military reuse zone unless the employee is engaged in aviation or aerospace services or in manufacturing, assembling or fabricating aviation or aerospace products and the taxpayer maintains at least the same number of employees in this state but outside the zone.

F. A taxpayer who claims a credit under section 43-1161, 43-1164.01 or 43-1165 may not claim a credit under this section with respect to the same employees.

G. For the purposes of this section, "dislocated military base employee" means a civilian who previously had permanent full-time civilian employment on the military facility as of the date the closure of the facility was finally determined under federal law, as certified by the department of commerce.

#### Sec. 16. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the income tax credits enacted in sections 43-1083.01 and 43-1164.01, Arizona Revised Statutes, as added by this act, are intended to encourage business investment that will produce high quality employment opportunities for citizens of this state and enhance the position of this state as a center for research, development, production and use of solar energy products.

#### Sec. 17. Effective date

This act is effective from and after December 31, 2009.